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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,772	02/05/2000	Alex Krister Raith	P-4015.398/P10569-BMOT-US	9286

7590

08/28/2002

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EXAMINER

IQBAL, KHAWAR

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/498,772

Applicant(s)

RAITH, ALEX KRISTER

Examiner

Khawar Iqbal

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,33,36 and 46 is/are allowed.
- 6) ☒ Claim(s) 2,8,9,15-26,38-43,45 and 49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 2,8,9,15-26,38,39-43,45 and 49 are rejected under 35 U.S.C. 102(e) as being unpatentable by Souissi et al (6167268).

Regarding claims 8,15, 38 and 49 Souissi et al teach method of channel selection for a mobile station comprising (abstract, figs. 1-8):

determining a position of said mobile station at first time instant (col. 7, 20-30), and updating said position periodically, wherein a frequency of said updating is a function of said position of said mobile station (for example, col. 4, lines 10-40, col. 6, lines 15-32, col. 7, lines 15-33, col. 8, lines 20-30).

Regarding claims 2,9,16-23,26,32,39-43 and 45 Souissi et al teach frequency of performing said channel quality measurements is a function of the relative position of said mobile station with respect to a first base station serving said mobile station (for example, col. 7, lines 10-33, col. 8, lines 16-44).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souissi et al (6167268) and further in view of O'Neal et al (# 6263064).

1. Regarding claims 10,11,24 and 25 Souissi et al do not specifically teach packet switched call and circuit switched call. In an analogous art, O'Neal et al disclose packet switched call and circuit switched call (col. 10, lines 45-67, col. 11, lines 1-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of O'Neal et al user packet switched call and circuit switched call modify into the system of Souissi et al channel selection procedures very depending on whether circuit-switched or packet-switched connection are used in wireless communication system.

***Allowable Subject Matter***

3. Claims 3,33,36 and 46 are allowed and dependent claims too.

***Response to Arguments***

4. Applicant's arguments with respect to claims 2,8,9,15-26,38,39-43,45 and 49 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Larribeau (# 6421328), Hall et al (# 6424837), Fischer et al (# 6295455), and Reed et al (6263209) teach scanning channels base position selection periodically.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is 703-306-3015.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EDWARD URBAN, can be reached at 703-305-4385.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231


**or faxed to:**

**(703) 872-9314 (for Technology Center 2684 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Khawar Iqbal



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